

**Amendments to the Drawings**

The attached sheets of drawings, which include Figs. 2-4, replace the original sheets including Figs. 2-4. In Fig. 3, Applicants have clarified the element references C1, C2, and C3 for Dealer Sites 2 and 5.

Attachment: Replacement Sheets (3)

### **REMARKS**

No additional fee is due for this Amendment because the number of independent claims and the total number of claims has not changed. Applicant herein corrects mistaken claim numbering (two Claim 27's) in the prior Amendment. The numbering change does not result in a fee, as there is still fewer claims than originally filed. Claims 1-9 and 24-35 are pending.

### **Telephone Interview Request**

Applicants request the Examiner contact the undersigned at (847) 490-1400 to schedule a telephone interview to discuss the merits of this Patent Application. Applicants believe a telephone interview will help clarify issues and expedite prosecution.

### **Amendment to the Specification**

Applicants have capitalized the store names identified in the Office Action. No new matter has been added to the Specification by this Amendment.

### **Amendment to the Drawings**

Applicants enclose replacement figures for Figs. 2-4. Applicants have amended Fig. 3 to use the reference signs in the Specification. No new matter has been added to the drawings by this Amendment.

### **Amendment to the Claims**

Applicants have amended Claims 1 and 4 to, for emphasis/clarification, use the term "directly" with reference to the product supplier fulfilling sales orders of consumers. Support for this Amendment can be found, for example, in the Abstract. No new matter has been added to the claims by this Amendment.

### Election/Restrictions

Applicants maintain the traversal of the Restriction Requirement, and reserve the right to appeal the restriction requirement and the withdrawal of dependent Claims 24-35.

The Office Action withdraws previously added dependent Claims 24-35 as being directed to an invention that is independent from the invention originally presented. The Restriction Requirement identified two inventions that were allegedly related as subcombinations usable together in a single combination. The Restriction Requirement stated the subcombinations were distinct if they did not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately useable.

Applicants canceled Claims 10-23 directed to the alleged Invention II. Applicants added new dependent claims 24-35 which are directed to elected Invention I, as these claims do overlap in scope with Invention I. The election of Invention I does not permit the Examiner to ignore limitations deemed to be originally claimed only depending from the independent claim of Invention II. The Restriction Requirement and Applicants' election allow the Examiner to withdraw claims that are directed to Invention II, i.e., those that do not overlap in scope with Invention I. Claims 24-35 should not be withdrawn as they depend from and overlap elected Claim 4.

Applicants are not trying to circumvent the Restriction Requirement, but were simply working within the bounds established by the Examiner for consideration.

Furthermore, this Office Action (page 2) responds to Applicants' traversal by saying that:

the separate utilities of Invention II are the intake of distributor identification details, listing customer orders fulfilled, and figuring a commission. *None of these utilities are specified in claim 4 or its dependencies.* (emphasis added)

However, simply because Applicants did not have specific dependent claims directed to these utilities does not mean that they can't be added now. The Restriction Requirement correctly identified that the alleged subcombinations can be used together. Applicants' disclosure clearly indicates that the utilities can be practiced in one system. The Restriction Requirement said the restriction resulted from subcombinations that did not overlap.

The Restriction Requirement was in response to a claim strategy that allegedly resulted in independent claims that presented the possible utilities with no overlap in scope. Applicants, wishing to operate within the bounds established by the Restriction Requirement, presented new dependent claims that provided the missing overlap that the Office Action said (and still says) is the reason for the withdrawal of Claims 10-23.

For at least the above reasons, Applicants respectfully request new Claims 24-35 be rejoined now and considered on the merits as they read on elected Invention I.

### **Drawings**

Applicants have enclosed replacement figures that overcome the objections at page 3 of the Office Action.

### **Specification**

Applicants believe the above Amendment complies with the Office Action's requirement.

### **Claim Rejections - 35 U.S.C. §101**

Applicants have amended Claim 1 as suggested by the Office Action to overcome this rejection, thereby rendering this rejection moot.

### **Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 1-9 under 35 U.S.C. §103(a) as being unpatentable over Morgan et al., U.S. Patent Application Publication No. 2002/0087583, in view of Ross et al., U.S. Patent 6,993,572, is respectfully traversed.

The Morgan et al. Publication is cited for teaching all claim limitations except limitation “c),” for which the Ross et al. Patent is cited. In order to establish a proper *prima facie* case of obviousness, the combined prior art references must provide all claim limitations. The combination of the Morgan et al. Publication and the Ross et al. Patent does not provide or suggest all limitations of independent Claims 1 or 4.

In Applicants’ claimed invention, the website is under the control of the product supplier. Distributors use subdomains to market/sell the product supplier’s product, and the online sales go directly to the product supplier who ships to the consumer. Applicants have amended Claims 1 and 4 to use the term “directly” to emphasize that the order fulfillment is between the product supplier and the consumer.

The Morgan et al. Publication does not teach limitation “c),” and also does not teach or suggest software for managing order fulfillment transactions between the consumer and the product supplier (Claim 1) or a product supplier computer with applications for providing order fulfillment transactions directly between the consumer and the product supplier (Claim 4).

The Office Action cites to Paragraph 0038 for teaching “order fulfillment transactions including replenishing inventory.” However, equating inventory replenishing (which in Paragraph 0038 is clearly going to the product distributor and not the consumer) with Applicants’ limitation completely ignores the portion of the limitation that says “between the consumer and the product supplier.” In Applicants’ claimed invention there is a transaction between the product supplier and the consumer. No person skilled in the art would reasonably

consider monitoring inventory at a store and replenishing inventory at the store to be Applicants' transaction between the product supplier and the consumer.

The Morgan et al. Publication teaches a web-based system for linking stores and their web sites to the distributor. However, the Morgan et al. Publication does not teach a website for taking orders that go directly to the product supplier for fulfillment. In the Morgan et al. Publication, the distributor/store fulfills the orders.

The Reed et al. Patent does not make up for the deficiencies of the Morgan et al. Publication. In fact, the Reed et al. Patent teaches an essentially opposite system from the Morgan et al. Publication, as well as Applicants' claimed invention. In the Reed et al. Patent, a "Host" allows a "Merchant" to use the Host's web site to sell the Merchant's goods. The Merchant receives the order and ships the product ordered (Col. 24, lines 63-65). The Office Action equates the "Merchant" with Applicants' product supplier and the "Host" with Applicants' distributor. In Applicants' system (and the Morgan et al. Publication) the product supplier ("Merchant") provides the web site and the distributor ("Host") has the subdomain. In the Reed et al. Patent the Host ("distributor") has the web site, and the Merchant ("product supplier") has the subdomain of the Host's web site. As the Reed et al. Patent teaches an opposite system, the Reed et al. Patent teaches away from the Morgan et al. Publication (and Applicants' invention), and there is no motivation or suggestion to combine these prior art references absent Applicants' disclosure.

The combination of the Morgan et al. Publication and the Reed et al. Patent do not provide all limitations of Applicants' claimed limitation. Furthermore, the web based systems of the prior art references are oppositely structured and teach away from each other. The only suggestion or motivation for combining these oppositely teaching prior art references comes from Applicants' disclosure, and thus the rejection is made using hindsight that is improper.

Favorable reconsideration and withdrawal of this rejection are respectfully requested.

**Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not resolved in this response, Applicants' undersigned attorney again requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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